

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re: :
BROWN, KAREN, et al., : Docket #1:15-cv-04091-
 : PKC-GWG
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Plaintiffs, :
 :
- against - :
 :
THE CITY OF NEW YORK, et al., : New York, New York
 : April 29, 2019
Defendants. :
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PROCEEDINGS BEFORE
THE HONORABLE JUDGE GABRIEL W. GORENSTEIN,
UNITED STATES DISTRICT COURT MAGISTRATE JUDGE

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INDEX

E X A M I N A T I O N S

<u>Witness</u>	<u>Direct</u>	<u>Cross</u>	<u>Re- Direct</u>	<u>Re- Cross</u>
None				

E X H I B I T S

<u>Exhibit Number</u>	<u>Description</u>	<u>ID</u>	<u>In</u>	<u>Voir Dire</u>
None				

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PROCEEDINGS

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THE CLERK: In the matter of Brown v. The City of New York, Docket No. 15-cv-4091.

Counsel, state your names for the record, please.

MR. JASON LEVENTHAL: Jason Leventhal for Karen Brown. Good afternoon, your Honor.

MR. JOSHUA MOSKOVITZ: Joshua Moskovitz, also for the plaintiff, Karen Brown. Good afternoon, your Honor.

MS. ANGHARAD WILSON: Angharad Wilson for the defendants. Good afternoon, your Honor.

HONORABLE GABRIEL W. GORENSTEIN: All right, so I have the two letters, Dockets 217 and 223. I think it will help me, whoever's speaking for plaintiffs, just to perhaps go through what you view as the lacunae in the affidavits.

But there was one thing that made me think I could short-circuit this a little bit, which was in your footnote, that you want to be assured that this is the efforts that were made to do the things that are described and there aren't any other efforts they're not telling you about; is that fair, is that what you were looking for?

MR. LEVENTHAL: That's fair, Judge, yes.

THE COURT: Because, you know, I think if they're giving an affidavit on a topic, we can assume that's going to be the limit of the information they would be allowed to offer in response to any motion on that topic. They

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2 can't -- you know, they can't start saying, "Well, we made
3 these other efforts." I mean, that's what the affidavits
4 are about.

5 So, I mean, I can -- you know, I can rule that
6 that's my ruling is that this is everything and they'll be
7 precluded from offering new evidence on that topic, if it
8 helps. Is that going to solve some of it, maybe?

9 MR. LEVENTHAL: Judge, I think it solves all of it
10 except for the issue of the preservation hold and whether
11 the City issued a hold or not.

12 THE COURT: And now we're talking about tapes or
13 something else?

14 MR. LEVENTHAL: Well, it would be -- we assume it
15 would be a general preservation hold that would have
16 affected the tapes and the Javier Fernandez notes.

17 THE COURT: Okay, so in terms -- the preservation
18 hold, it seems to me, matters for a spoliation argument,
19 right?

20 MR. LEVENTHAL: Yes. And it also matters for the
21 failure to timely disclose --

22 THE COURT: That's where I'm wondering about that
23 because let's -- I'm not saying it happened like this --
24 but let's say you ask on Day 1 for a certain document.
25 Day 30 they produce things without the document they were

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PROCEEDINGS

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supposed to get. And then three years later they produce the document. Okay? So you've been you've been prejudiced to some degree by that. But what does it matter whether the reason it came up three years later was something internal did or did not happen vis-à-vis a preservation hold? I mean, it's three years late. Is their argument going to be different if they did a preservation hold?

MR. LEVENTHAL: Will the argument be different if they did a preservation hold? I think it would be, Judge. And the reason --

THE COURT: I should have phrased it differently, because they're not talking about a preservation -- you can remain standing -- I'm addressing you. Let me phrase it differently. They come in, and they say whatever they say here about how it came about. They don't reference a preservation hold specifically as I -- or they don't reference a special litigation hold. So you will then say it came three years late. And maybe your fear is they'll say, "Oh, we issued a hold and then someone didn't obey it." But they won't be able to say that because it's not in here.

MR. LEVENTHAL: Our argument would be that if they did not issue a -- well, first, if they had issued a preservation hold, we believe the documents would have been

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2 timely produced.

3 THE COURT: But you are free to make that
4 argument. You are free to say, "You know what, there's no
5 excuse for this. All they had to do was tell this person
6 or that person, and none of this would have happened -- to
7 preserve any documents relating to the incident -- and none
8 of this would have happened." You are going to be
9 completely free to make that argument, right?

10 MR. LEVENTHAL: We will. But right now it's
11 questionable whether a litigation hold was implemented or
12 not. We've asked them to stipulate that it wasn't, and
13 they refused to.

14 THE COURT: Okay. But if they're limited to
15 what's in here, then they're not going to be able to
16 suddenly come up and say, "Well, we had a litigation hold
17 of some particular kind," I guess.

18 MR. LEVENTHAL: Yes, Judge. But I suppose if
19 there was a litigation hold so the City, through the law
20 department or the comptroller's office, had a system in
21 place that appropriately preserved evidence when they were
22 aware that litigation was imminent, so there was a
23 litigation hold, and then somehow the NYPD through, we
24 don't know, negligence, gross negligence, willful conduct,
25 did not do anything in response to that litigation hold, I

1 think our arguments would be different.

2 THE COURT: Okay, so your thought would be if
3 there would be some element of willfulness, I suppose,
4 if -- and, again, it's one big entity, the City -- if
5 there was some litigation hold that some employee of the
6 City disobeyed and allowed something to get destroyed,
7 that's the theory?

8 MR. LEVENTHAL: Or if the NYPD had no system in
9 place to properly preserve evidence that was subject to a
10 litigation hold.

11 THE COURT: Well, now we're back to what I said,
12 which is you're going to be free to argue, you know, they
13 didn't do what they had to do to make sure these notes
14 weren't -- it's the notes that were destroyed, right?

15 MR. LEVENTHAL: Yes.

16 THE COURT: Okay. They didn't do what they had
17 to do to ensure the notes were not destroyed. The City
18 has now said it did, I -- you said everything you did that
19 would prevent those notes from being destroyed; I mean, is
20 it all in here?

21 MS. WILSON: Yes, that's correct, your Honor.

22 THE COURT: All right, so they said everything
23 they've done.

24 And then I'm still back to where I am, which is
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PROCEEDINGS

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you're free to argue that wasn't enough.

MR. LEVENTHAL: One moment, Judge?

THE COURT: Yes, sure. Take your time.

MR. LEVENTHAL: So, Judge, the only issue is, as you described, is the ability for us to explore, discover whether there was any evidence that this was willful or not.

THE COURT: Okay, so let me just think about that issue. So -- but I guess -- all right, so the theory is that maybe there's a litigation hold; they've elected not to tell us about it; and then if someone at the NYPD knew about that hold and then disobeyed it, that that would create a different argument regarding spoliation, rather than if they just failed to, you know, negligently, I guess, failed to do anything to preserve the documents, that's the theory?

MR. LEVENTHAL: I think so, yes, your Honor.

THE COURT: Okay, Ms. Wilson, do you want to address that?

MS. WILSON: Well, first I would just say that in Detective Fernandez's declaration, as well as in his testimony at his deposition, he did both describe what his general practice was with the preservation of handwritten notes that he might have taken.

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2 Additionally, I'd also like to point out that,
3 although he did say that he took down some type of
4 information regarding the pedigree of these individuals,
5 he was unable to recall whether or not there were any
6 substantive notes that he took at all, either in his
7 deposition or in his declaration.

8 Regardless, I think that it's clear from
9 Detective Fernandez's declaration that he was never asked
10 to turn these notes over until I believe it was February
11 of 2019. And we would argue that the plaintiff --

12 THE COURT: Hold on. And where is that in the
13 affidavit that makes that clear?

14 MS. WILSON: I'm sorry, your Honor, let me
15 just --

16 THE COURT: Take your time.

17 MS. WILSON: It's in paragraph 10 of --

18 THE COURT: Right. "I have not been asked --"

19 Well, this sort of answers your litigation-hold
20 question, which is -- I mean, so you're saying is it the
21 case that being asked meant that no litigation hold had
22 been communicated to him? That's what -- when he says he
23 wasn't asked --

24 MS. WILSON: I mean, I --

25 THE COURT: It's a fair implication, I guess.

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PROCEEDINGS

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So tell me -- okay, so the theory is that he was never told anything prior to February 2019 about these notes?

MS. WILSON: Yes, that's correct.

THE COURT: Okay. So that would have to include a litigation hold at least made it to his attention.

So, I mean, let me just ask you: Is there a litigation hold? Is that a thing or not? To use the modern parlance.

MS. WILSON: I mean, I think that in this particular matter I'm not sure that a hold was issued, certainly not with respect to Detective Fernandez's notes, which is the subject that we're speaking about today and which is the subject of any type of a spoliation sanction or a potential spoliation motion for sanctions.

THE COURT: Does that mean that the -- I don't know, here's what I'm wondering. I mean, if you have some -- I guess two things -- if you have some practice of issuing a litigation hold and that for some reason it didn't happen in this case, I think they should know about it. Can you address that question further? Maybe not now but through an affidavit. Do you understand what I'm getting at? Because if you have a normal case, then the question becomes why -- you would need some explanation of why it didn't happen in this case.

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MS. WILSON: Well, your Honor --

THE COURT: That's the first thing.

And then the second thing is -- maybe we've answered -- but if there was a litigation hold given to someone who is a superior, I guess, and the someone says, "Oh, you know what, yeah, we got this notice from the law department, but I don't want anyone finding out about this incident, so I'm not going to communicate to any of my underlings that I got a litigation hold; hopefully, all the documents will get destroyed," it might be relevant for that purpose. So that seems to be relevant. And maybe we could just have a supplement as to the litigation -- it seems to me maybe we do need a supplement as to at least anything that would have preserved these notes.

MS. WILSON: Would that be, for example, a supplement regarding whether those notes were ever requested prior to February 2019?

THE COURT: In any form, including -- well, remember I said two things. One is, you know, is it the usual practice to have a directive that might have saved these notes; who does it; and if it wasn't done here, why wasn't it done; and if it was done, why didn't it get communicated to Fernandez?

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2 MS. WILSON: Well, I would point out that
3 Detective Fernandez did state that it is his general
4 practice, as I believe it is the general practice of other
5 investigators in the NYPD, to retain their notes due to,
6 for example, their obligations under *People v. Rosario*.
7 He does say that it was his practice to maintain notes
8 that he took in this case. So --

9 THE COURT: But that's not answering my
10 question, really.

11 So tell me what the objection is to giving an
12 affidavit from somebody that says -- and maybe it's two
13 people; maybe it's from you and someone else -- that just
14 says, "Here's our practice for calling a litigation hold
15 in a case like this insofar as it would have reached the
16 notes that Fernandez took." And then you'll either say
17 well, we did or we didn't do it. And if you didn't do it,
18 you can explain why you didn't do it -- maybe someone
19 forgot. If you did do it, you have to explain how it
20 happened that that wasn't enough to cause him to be told
21 prior to 2019 or somebody to be told to preserve these
22 notes. Do you understand?

23 MS. WILSON: Yes, I do, your Honor.

24 Would this only be with respect to the limited
25 issue of Fernandez's notes, given that Fernandez's notes

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2 are the only --

3 THE COURT: That's the only spoliation issue,
4 right? That's the only thing that got spoliated right?

5 MR. LEVENTHAL: It is the only thing that got
6 spoliated, Judge. But we do argue that the failure to
7 timely disclose the radio transmissions resulted from the
8 failure to preserve the original copy of the radio
9 transmission. If they would have been preserved through a
10 preservation hold, then we believe they would have been
11 turned over timely.

12 THE COURT: Right. But that's not spoliation; I
13 mean, that's delay. I think you have what you need on
14 delay, so I'm not going to -- you know, the delay is the
15 delay.

16 MR. LEVENTHAL: So, yes, Judge, then it is just
17 the notes. But it's strange to us that the City's trying
18 to talk about just preservation of notes. Clearly, the
19 City's not just preserving Detective Javier Fernandez's
20 notes if they're doing any type of preservation after the
21 Notice of Claim was filed.

22 THE COURT: I strongly doubt that, if there is a
23 preservation notes, it's as to the notes; I agree. And I
24 doubt we're going to find that out. But to the extent
25 that they do two notice -- you know, a preservation notice

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PROCEEDINGS

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as to something totally different that wouldn't have covered the notes, I just don't want to go down that road.

So, anyway, you've answered my questions, the notes. So when can we get such an affidavit or affidavits?

MS. WILSON: Would two weeks be all right, your Honor?

THE COURT: Well, these people are all primed up right now, aren't they? How about a week? Do you want to try for week, and if you can't do it, you'll tell me why and then we'll see where we are?

MS. WILSON: All right. Thank you, your Honor.

THE COURT: You look skeptical.

I'm hopeful. May 6.

Okay, hopefully, that's going to be the end of it. I think I've now ruled on what you've asked me to rule on. Is there anything else you think we need to do today?

MR. LEVENTHAL: Well, Judge, the other part of it, the collection, are we just proceeding with the fact that they have not done anything else -- so, in other words, it appears to us that what the City is saying is the NYPD did not conduct any independent investigation into their files to turn over any relevant discovery

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PROCEEDINGS

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That's what the affidavit seemed to read to me. However, when we broached this topic with Ms. Wilson and asked her to confirm or stipulate that this is everything the NYPD has done, the City refused to do that.

THE COURT: I think I'll get her to say right now are there any other efforts that were made to collect with respect to the matters that are described in these affidavits other than what's described in the affidavits?

MS. WILSON: As to the matters described in the affidavits -- and I just want to make it clear that that is what we are speaking about -- these are the collection efforts that were made with respect to those documents.

THE COURT: Okay.

MR. LEVENTHAL: And the way they're parsing this out is a concern because we would think, from our side, that when this lawsuit comes in, the attorneys would send over some type of general memo to the NYPD, "We've received litigation, there's litigation regarding death on this date; please collect all documents." The City is really focusing on specific requests for specific documents. So --

THE COURT: I didn't think we were down a road which is the road one might take, you know, in the middle of discovery to, you know, ask, you know, have we done

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2 everything possible to collect all our documents. I
3 understood we were down a road where we're trying to deal
4 with spoliation and we're trying to deal with why there
5 was a delay in producing something. But what you're
6 talking about, I just don't think it's worth delaying this
7 case even further to now go through the whole process of
8 what was done for collection.

9 MR. LEVENTHAL: Well, no, Judge, we don't want
10 the whole process of what was done for collection. I
11 guess what we just want answered is whether the NYPD did
12 anything on their own to locate any documents discoverable
13 for this case or if they simply relied on their attorneys
14 to request documents. It appears from the affidavits --

15 THE COURT: But, I mean, I'm sympathetic to the
16 City's view. This is one process. You know, it's --
17 that's the way document production works. So pretend it's
18 a corporation. The lawyer goes to the corporation and
19 says, "What have you got? I want you to do this, want you
20 to do that." There's a collaborative effort, and then
21 it's produced. And people don't come in and say, "Okay,
22 corporation, what did you do independent of the attorney
23 to collect these documents?" That's not a road I've
24 normally gone down.

25 MR. LEVENTHAL: Well, and that's how we see it,

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PROCEEDINGS

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that there would have been some collaboration between the two to locate documents. What the City is saying now, apparently, is that there was no collaboration until December of 2018, when Judge Castel ordered an affidavit on the destruction of evidence. And then all of a sudden, the NYPD began collaborating with their attorneys and figured out, *Hey, there are these other documents out there that we don't seem to have ever collected or turned over.* So if that's the case, we just want to know that those are the facts, that the NYPD simply provided -- prior to December of 2018, the NYPD simply provided its attorneys with what its attorneys asked for.

THE COURT: Well, I think Ms. Wilson has described what she did to collect documents, and I assume this is the whole story.

So, Ms. Wilson, I think the parsing is not as nefarious as you think. We ask questions about what would lead to the collection of the tapes and the notes and whatever the investigator files, whatever that was. And there's a broader story that goes with it, which she describes. And then we get to how we ended up just with these documents. That's the whole story. Ms. Wilson, I assume that's the whole story as to these documents; is that right?

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PROCEEDINGS

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MS. WILSON: Yes, that's correct, your Honor.

And I would just note that whether there are efforts to collect documents that were timely produced really has very little bearing on our efforts to -- on whether or not it's sanctionable that we produced documents late, as well.

THE COURT: So you're going to make your motions. And if they come up with new facts that aren't in here, someone's got to come back to me. We'll deal with it. I mean, I can't believe it's going to happen. But this is now your set of facts, and it will rise and fall -- or their position and your position will rise and fall on those.

Mr. Leventhal, anything else?

MR. LEVENTHAL: Judge, the last point is just that the declarations indicate that Ms. Wilson requested the 44th Precinct Detective Squad file from the NYPD. And there's no explanation of why the NYPD did not produce it. Ms. Wilson indicates that she didn't follow up on it, but --

THE COURT: You want to figure out why they didn't produce it?

MR. LEVENTHAL: It was requested, and they didn't produce it. So there's no facts as to why that was not

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PROCEEDINGS

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produced by the NYPD in response to the attorney's request.

THE COURT: Okay. So, Ms. Wilson, you asked, if I recall from your affidavit, you asked someone to produce that file, and it didn't happen. And you then followed up a long time later, is that right?

MS. WILSON: Well, your Honor, first I would note that we -- just to be very clear -- we didn't request the Detective Squad file; we requested any DD-5s -- those are complaint follow-up reports -- related to this incident from the squad --

THE COURT: And do you think that would not have been understood to include notes, is that your point?

MS. WILSON: No. I'm just making clear that we didn't actually request the file itself.

Additionally, the reason that --

THE COURT: No, but why is that important? I'm sorry. Is that --

MS. WILSON: Because, while they're similar, they're not exactly -- they're not exactly the same thing.

THE COURT: Okay, did they produce the DD-5s timely?

MS. WILSON: No, they did not, your Honor.

THE COURT: Okay. All right. So --

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PROCEEDINGS

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MS. WILSON: But I just wanted to make that clear. It's a small distinction, but it is a distinction.

Additionally, as we told plaintiff's counsel on the phone, the individual who was handling processing these requests at NYPD has since retired. And I think that any information that we would be providing --

THE COURT: So the person you asked from is not working at the NYPD?

MS. WILSON: That's correct, your Honor.

And I think that, if anything, it would be -- any explanation for why the DD-5s were not produced to us would be entirely speculative.

THE COURT: Well, not if you could find that person.

MS. WILSON: Well, I'm not certain that she would be able to recall the specific document that she requested six years ago. And, you know, the fact of the matter is that I failed to follow up on those --

THE COURT: Well, they also failed to produce it. Is that a common occurrence?

MS. WILSON: And --

THE COURT: Ms. Wilson?

MS. WILSON: I'm sorry?

THE COURT: They also failed to produce it. Is

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PROCEEDINGS

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that a common occurrence?

MS. WILSON: I can't really speak to that.

But, regardless, I would say that the -- that it would really be speculation as to why we didn't receive that document. And, you know, again, the fact of the matter is that it was not timely produced. And I think that that's really all that plaintiff --

THE COURT: So this ultimately was produced?

MS. WILSON: Oh, yes, yes, it was.

THE COURT: All right, I mean, Mr. Leventhal, the difference -- I mean, I think we've reached a realm that, you know, your motion, the important part of your motion is that you had to wait three years and the Court had to wait three years. And I think -- I agree that trying to find this retired person is not a fruitful road as just a matter of proportionality to your needs. So I think we're going to leave it at that, Mr. Leventhal.

MR. LEVENTHAL: May I, your Honor?

THE COURT: Certainly.

MR. LEVENTHAL: I agree, Judge, that trying to find this person would be a waste of time and energy. But we would think that there would be some type of systems or records in place to show us what happened to this request; or if there was no system or records in place with these

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2 requests from the law department --

3 THE COURT: But -- okay, your best-case scenario
4 is -- I'm not sure what your best-case scenario is, but
5 based upon what we have so far, a request is made. Maybe
6 there's some log that says Ms. Wilson asked for this, and
7 then there's a blank to the right that says no one ever
8 followed up on it. I mean, I'm just trying to figure out
9 what that gets you that's any more important than the fact
10 that it took three years for them to get it to you.

11 MR. LEVENTHAL: Well, we just don't know if the
12 system is not an appropriate system to deal with these
13 requests, if they don't have any record-keeping or check
14 or balance to make sure that they follow up on these
15 requests. You know --

16 THE COURT: So you want to know what the system
17 was?

18 MR. LEVENTHAL: Or any records or documents
19 showing what happened to this request, why it was not
20 fulfilled.

21 THE COURT: And how is it going to help you,
22 beyond the fact that it was three years late, to know
23 that?

24 MR. LEVENTHAL: I think it could rise from a
25 negligent situation to a gross negligence to a

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2 willfulness.

3 THE COURT: Okay, but, again, we're not in this
4 spoliation land. This was not spoliated evidence, as I
5 understand it. This is stuff you got.

6 MR. LEVENTHAL: Well, maybe the --

7 THE COURT: I'm not sure -- I understand those
8 levels for spoliation, but not for just these people
9 delayed me for three years.

10 MR. LEVENTHAL: Then it's a matter -- yes, Judge,
11 under Rule 37, it's still their explanation as to what the
12 reason for the delay is is still something that needs to
13 be analyzed. And if the explanation is that we requested
14 it -- our attorneys requested it, and we didn't have any
15 system in place to deal with these attorney requests
16 properly, I think that might be not nearly as good an
17 explanation as to 99 out of 100 times we fulfill these
18 requests, and this is the one that slipped through the
19 cracks.

20 THE COURT: Ms. Wilson?

21 MS. WILSON: Your Honor, I would just point out
22 that, again, we're in the realm of discussing a late
23 production rather than a spoliation issue. To that, I
24 think that both plaintiff acknowledges and certainly we
25 would agree that it is defendants' burden to argue

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PROCEEDINGS

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substantial justification, which I think would encompass these kind of --

THE COURT: I'm sorry, what --

MS. WILSON: Substantial justification for the delay in our production. So to the extent that we're arguing that the steps that we took were reasonable and harmless, it's on defendants to argue it. And I don't think that it's really necessary to begin to reach the specifics of why this request wasn't fulfilled at the time, given that no one disagrees that it wasn't fulfilled at the time and that I as the attorney for the law department did not follow up on it.

THE COURT: I mean, I'm of two minds. I mean, I think there -- unless you're prepared to concede that there was, you know, no system in place, which I suspect you're not, then --

MS. WILSON: Your Honor --

THE COURT: Go ahead.

MS. WILSON: I mean, I'm just not sure what saying something like, for example, as you said, saying something like, "Ms. Wilson made this request. It was received and logged. No response was ever received," I'm not sure how that --

THE COURT: So but I think it would be different

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PROCEEDINGS

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if in fact there is no log system. And that would show kind of a greater degree of negligence if in fact the precinct takes calls and then they just hope they remember at the end of the month which calls came in, as opposed to, you know, having a system that writes it down and makes sure it gets responded to. That's the difference.

MS. WILSON: But I don't think that that's really sort of what's at issue here. I think what's at issue here is just the late production of these specific documents --

THE COURT: Well, if you're willing to concede that the failure to produce it was the result of, you know, whatever -- I don't think there's any theory on which it's going to be intentional but was, you know, grossly negligent -- and they're free to argue that. I don't think you want to do that. They want to be able to say that. They want to be able to say there was no system -- they're hoping, maybe -- there was no system in place, and it was not reasonable to have a system where the attorney has to, once they make their request, is expected to remember or follow up on every single request they make, and that was guaranteed to lead to delays. They want to be able to make that argument.

So if you have a system that at least logs it and someone back at the precinct is supposed to respond to it

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2 within X number of days, if there is such a system, it
3 doesn't seem very burdensome if there's someone there now
4 to describe what the system was. And if there wasn't a
5 system, I think they probably should know about it. So I
6 understand that one's a little harder.

7 Why don't I give you to the end of next week on
8 that one, May 10? But someone -- if there is a
9 "someone" -- should describe what the system was for
10 dealing with a request of the kind that you made at the
11 time. And if there's any explanation for why it didn't
12 happen here, great. It sounds like there won't be, since
13 we don't have the particular person involved. I think
14 these are very limited areas, and they should not be hard
15 to produce an affidavit on them.

16 Okay, so do you understand the requests,
17 Ms. Wilson -- the direction, Ms. Wilson?

18 MS. WILSON: I would appreciate it if the Court
19 could just give me specific instructions as to both.

20 THE COURT: Well, the first one, hopefully it's
21 in the record. The one we just did -- well, you don't say
22 in paragraph 25 when you made this request, because I was
23 about to say at the time you made the request -- do you
24 know when you made the request?

25 MS. WILSON: The request was made in, I believe,

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PROCEEDINGS

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the very end of June 2015 or the very beginning of July 2015.

THE COURT: Oh, it's the incident in July 2015 -- I'm sorry, I thought it said "of July 2015." Okay, so it's July 2015.

So as of -- which what I need is an affidavit that describes as of July 2015 what the process was in the 44th Precinct's Detective Squad -- if that's who you asked -- or whoever it was you did ask -- what the process was for responding to requests of that kind.

MS. WILSON: As described by Ms. Daitz's affidavit, the requests made by the law department go through the civil litigation unit.

THE COURT: So that's who you requested?

MS. WILSON: Yes, that's correct, your Honor.

THE COURT: Okay. And do we have a description of what process they used? Is that what we're missing? They have a lot of generic language. I think we need something specific as to what the process was to communicate that or to get it from the 44th Precinct and, you know, whether there's a record of it; you know, just take us through the process. Okay. Understood?

MS. WILSON: Yes. Thank you, your Honor.

MR. LEVENTHAL: May I, your Honor?

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PROCEEDINGS

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THE COURT: Sure.

MR. LEVENTHAL: And what they did in this particular case, as well.

THE COURT: Yes. And if you have anything information in this particular case, definitely put that in. But even if you don't, what the normal process is.

Okay, Mr. Leventhal, anything else for today?

MR. LEVENTHAL: One moment, Judge?

THE COURT: Sure.

MR. LEVENTHAL: Nothing further. Thank you, Judge.

THE COURT: Anything from the City?

MS. WILSON: Nothing further, your Honor.

THE COURT: All right. Thank you, everyone.

(Whereupon, the matter is adjourned.)

C E R T I F I C A T E

I, Carole Ludwig, certify that the foregoing transcript of proceedings in the case of Brown et al v. The City of New York et al, Docket #15-cv-04091-PKC-GWG, was prepared using digital transcription software and is a true and accurate record of the proceedings.

Signature Carole Ludwig

Carole Ludwig

Date: May 1, 2019